

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2025-46 Legistar #: 20250957

Board of Zoning Appeals Hearing: Monday, January 26, 2025 at 6:00pm

Property Owner: [REDACTED]

Applicant: as above

Address: 2070 Airport Industrial Park Drive SE

Land Lot: 660 District: 17 Parcel: 0140

Council Ward: 7A Existing Zoning: LI (Light Industrial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to operate an auto sales lot on a parcel less than one acre in size [§708.26 B.8.a.]
2. Variance to operate an auto sales lot within 50 feet of property zoned for residential purposes [§708.26 B.8.c.]
3. Variance to permit a chain link fence to provide screening for the adjacent residential property [§708.26 B.8.d.]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Above - The subject property, which is kept in a meticulously clean and orderly state.

Left - Access to the property is via an easement through others' parcels. Although maneuvering large carrier vehicles in and out of the drive area could be problematic, the applicant has stated that he only intends to sell a low volume of inventory, capable of being delivered by smaller tow trucks.

Recommended Action: Denial based on strict interpretation of zoning code. Approval with stipulations could be merited, though, based on the belief (following a site visit and discussion with applicant) that the public interest will not be compromised if variances are granted.

██████████ owner of 2070 Airport Industrial Park Drive, is requesting variances so that cars can be sold from his property, zoned LI (Light Industrial). ██████████ has operated an auto repair business, Crown Transmissions, from the property since August 1995, but states in the variance application that transmission repair work has considerably shrunk in recent years as car technology has evolved. The applicant therefore wishes to begin selling cars to “save the company.”

Per zoning code, automobile sales are allowed only under the following conditions in LI districts:

- a) Minimum one acre lot size.
- b) All vehicles shall be set back at least 10 feet from the street right of way line.
- c) Such use shall be located at least 50 feet from any properties zoned for residential purposes.
- d) A solid fence or wall no less than six feet in height shall be maintained to provide a visual screening between the residential and commercial properties.

The subject property, however, is too small by code (0.9 acres) to accommodate a car sales lot and is located adjacent to an apartment complex, The Park on Windy Hill. Additionally, only a chain link fence currently separates the property from the residential use next door.

Arguments against the granting of variances

Code states that the granting of variances must be based on evidence showing:

- “*The existence...of a nonconforming structure or physical condition at a time prior to the adoption of the Zoning Ordinance* of the City of Marietta, or amendments thereto, [which] requires the continuance of such nonconforming structure or physical condition” [§720.03 A.2.a.], or
- “*There are extraordinary and exceptional conditions creating a substantial hardship to the applicant* which pertain to the particular piece of property or building in question *because of its size, shape or topography*” [§720.03 A.2.b.].

By these metrics, Staff must conclude that variances are not warranted: No nonconforming structure is being considered, and the apartment complex was built in the 1970s prior to the subject property ever being developed, making the 50-foot distance argument moot. While the lot size mentioned in the second point is a limiting factor, being under an acre is not an “extraordinary or exceptional condition” in itself; rather, the mandated minimum lot size was imposed to serve as “guardrails” on the use to ensure the parcel is large enough to accommodate car sales while maintaining the standard of development expected by the City.

A further consideration is that a stream is located on the property (with associated stream buffer requirements), and floodplain is present. No new paving could be installed to expand the usable lot area, then, without stream buffer variances being granted. As such, the actual lot size that could

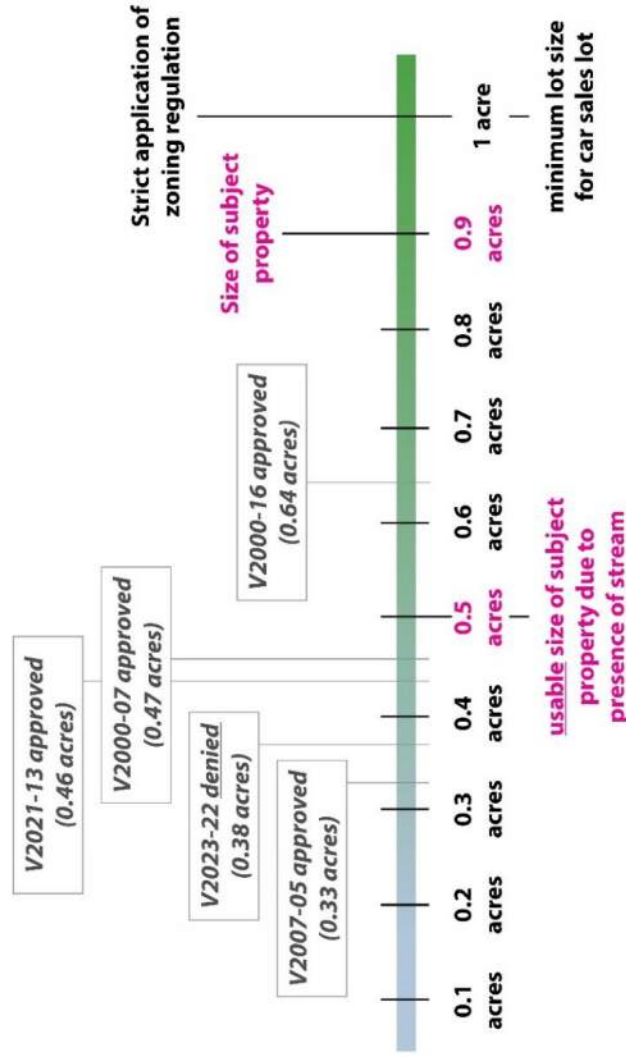
be used for car sales is much smaller than the total 0.9 acres, with only approximately half (0.5) an acre grandfathered in for use. The applicant additionally relayed to Staff that he intends to maintain some degree of transmission assembly work on the property, potentially restricting the area dedicated to car sales even further.

The ordinance also states, however, that variances may be granted if strict application of regulations would result in unnecessary hardship, *if the broader public interest can still be upheld*. Fortunately, several parallel examples exist which track the impact of granting allowances for “smaller than standard” car lots to operate along Airport Industrial Park Drive. At least four (4) other used car dealers have requested variances to sell cars on lots less than an acre in size (from 0.33 acres to 0.64 acres) since 2000 on that street alone, with only one (1) recent case being denied in 2023 (on 0.38 acres). Since being granted variances to operate small car lots:

- 1960 Airport Industrial Park Drive (V2000-07; 0.47 acres) has been cited multiple times by Code Enforcement for parking on grass and unpaved surfaces and for excessive weeds/rubbish.
- 2072 Airport Industrial Park Drive (V2000-16; 0.64 acres) has been cited multiple times by Code Enforcement for vehicles parked on dirt, flooding of premises, people living on site, and excessive weeds and trash.
- 1955 Airport Industrial Park Drive (V2007-05; 0.33 acres) has been cited multiple times by Code Enforcement for severe erosion/potholes, junk stored outside improperly, trash, and an illegal temporary structure.
- 1960 Airport Industrial Park Drive received further variances to expand their businesses on site (V2021-13) and has since been cited multiple times for vehicles parked on dirt/grass and for potholes.

Airport Industrial Park Drive Properties

Variance cases for car lots under 1 acre in size



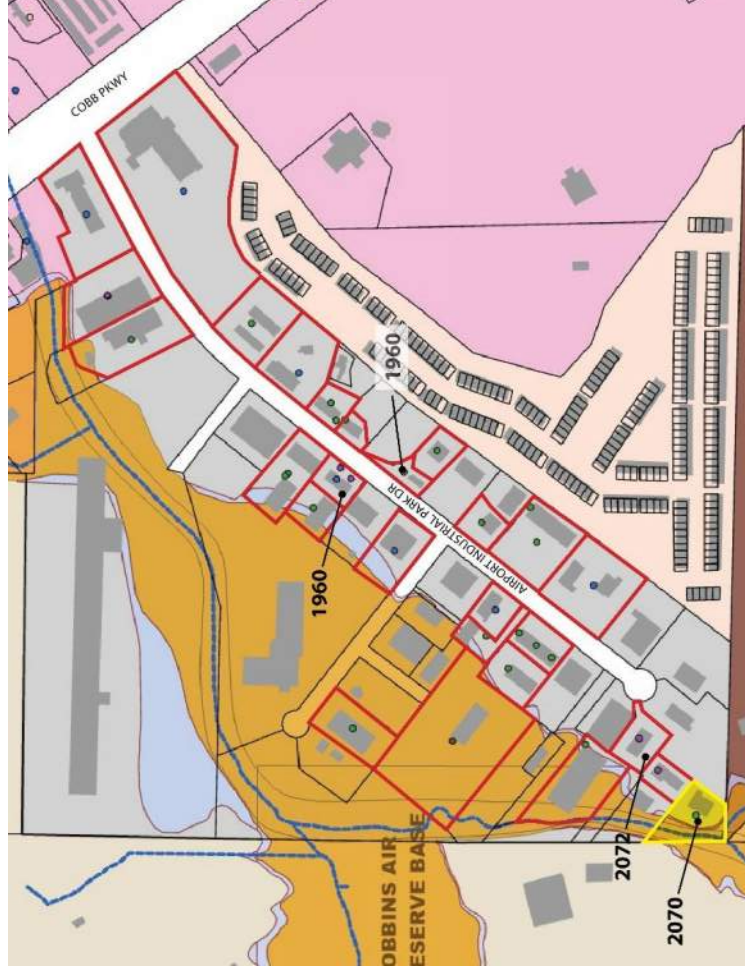
The rationale cited in each case for granting the variances was:

“Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.”

This rationale should be informed by experience, particularly where ramifications of granting variances can be so clearly established. For example, the fact that one of the properties granted variances to operate a car sales lot on less than an acre, 2072 Airport Industrial Park Drive, neighbors the subject property (and shares an access drive from the street – see map below), might be a reason for concern. If past examples hold true, the likelihood of code violations to emerge on the subject property seems strong – perhaps in this case, however, with adverse impacts to the floodway or stream buffers if additional space was to be paved to accommodate more vehicles.

Arguments for the granting of variances

At the same time, the character of the half-mile Airport Industrial Park Drive has arguably already been established as an auto-centered corridor. The diagram below shows the locations of all of the auto-oriented businesses currently operating on the street, including auto sales lots, auto brokerages, auto repair shops, rental agencies, etc. As pointed out above, a number of the properties have been granted variances over the years, which has helped solidify this quality. One way to consider the case at hand, then, is if this character is to be embraced, or if change is desired.



Parcels containing auto-oriented businesses (auto sales, repair, brokerages, rentals, etc.) are outlined in red and the subject property highlighted in yellow. Properties which were granted variances to operate car sales on “small lots” are also identified.

Staff suggests that rather than impeding the continuing auto-oriented character of the corridor (and perhaps others such as Cobb Parkway), specific regulations facilitating the operation of car businesses at this location could be investigated. Ideas include allowing smaller car lots along the street, but mandating that each has to be striped to hold cars in an orderly fashion. Another possibility is potentially establishing loading and unloading areas for vehicle deliveries along the right-of-way so that the smaller lots could function better, without needing extra space for the car carriers to maneuver.

Perhaps most importantly for this variance request in particular, however, is that the subject property was found by Staff on an impromptu site visit to be kept meticulously clean and well-organized. The applicant conveyed disappointment in the state of many of the properties in the vicinity, including that of the neighbor who has received multiple code violations. When Staff inquired about how inventory would be kept and managed on less than an acre, the applicant insisted that he intends to be only a low-volume dealer, with only one (1) or two (2) cars being delivered at the same time on a given day. As such, only smaller vehicles, such as tow trucks, would have to access the property, making maneuvering of large car-carriers less of a concern. He was amenable also to the idea of potentially striping parking spaces on the lot to further aid its organization. When the stream on the property was discussed, the applicant said he had no intention of developing the wooded area. With an engineering background, he said he was aware of the complexities of embarking on such a project and the cost that would be entailed to transform it in the right way. Such assurances alleviate many concerns Staff has, then, about potential adverse impacts the granting of variances may have.

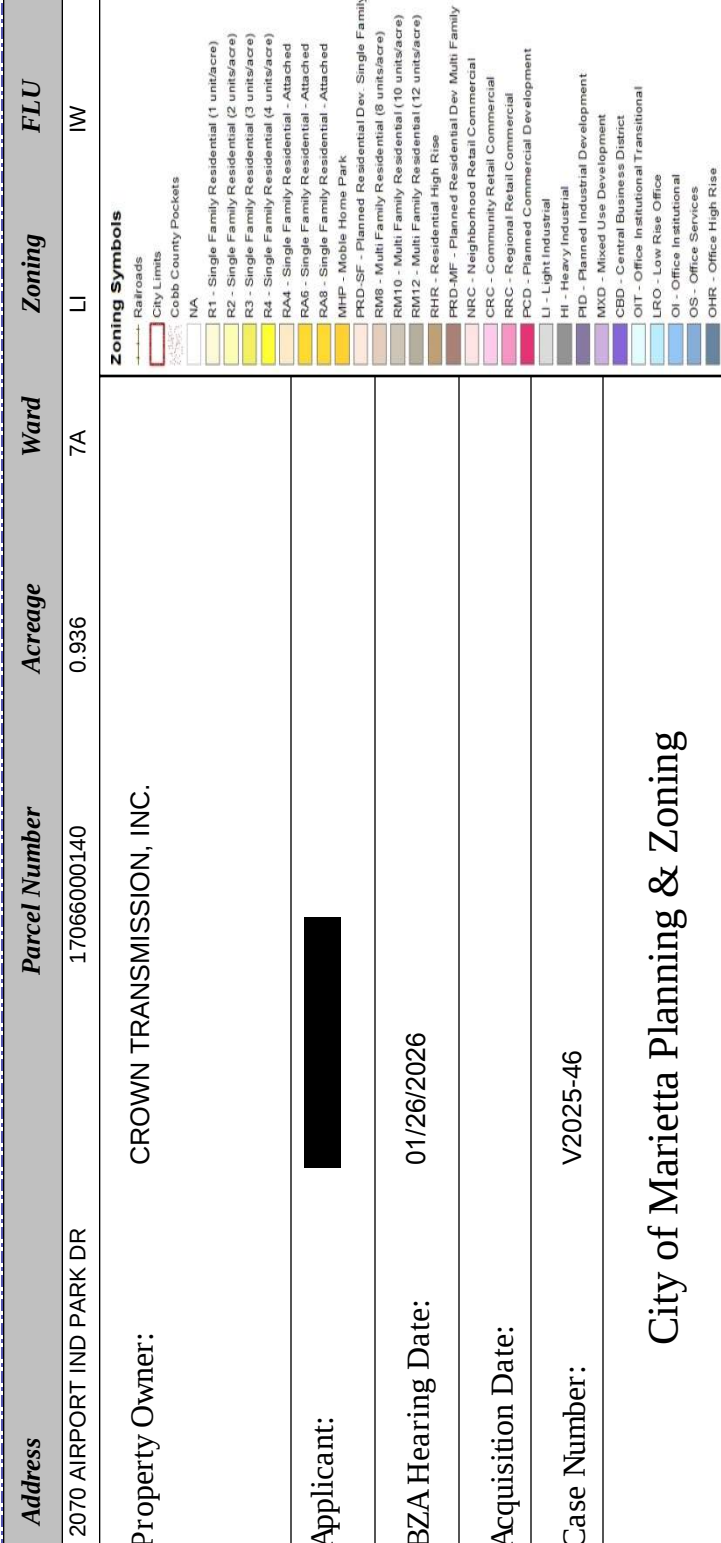
Conclusion

Staff believes the case has not been sufficiently made in the strictest sense to warrant the granting of variances, in that no existing non-conformities or physical attributes of the lot are “extraordinary or exceptional” conditions. A desire to boost revenue through auto sales is not considered a hardship. (Perhaps other forms of auto repair could be explored beyond transmission work, or a tenant be brought in to lease a bay from the owner to supplement income.)

While this conclusion may constitute a “black and white” interpretation of the zoning code, the Board of Zoning Appeals will ultimately decide if the question at hand is in fact more “grey,” and ultimately what the trajectory of the property – and more widely, the corridor - should be.

Should the Board wish to grant variances, Staff recommends the following stipulations accompany approval:

- Create a parking lot to standard for the orderly arrangement/storage of vehicles.
- Applicant agrees to remain a low-volume dealer, forgoing the need for large-scale deliveries and accommodation of excessive cars.
- No trees or vegetation can be disturbed for expansion of the existing paved area without submitting for a Land Development Permit so that potential impacts on the stream can be assessed. Further, no trees are to be removed without obtaining a Tree Removal Permit.
- The right-of-way is not to be used and/or blocked for the delivery of auto inventory.





Aerial Map



Address	Parcel Number	Acreage	Ward	Zoning	FLU
2070 AIRPORT IND PARK DR	17066000140	0.936	7A	LI	IW
Property Owner:	CROWN TRANSMISSION, INC.				
Applicant:	[REDACTED]				
City Council Hearing Date:					
Planning Commission Hearing Date:					
BZA Hearing Date:	01/26/2026	Case Number: V2025-46			
Comments:					
City of Marietta Planning & Zoning					
Legend Railroads City Limits Cobb County Pockets					



Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Rusty Roth, AICP, Director

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2025-46 Registrar #: 20250957 BZA Hearing Dt: Dec 15, 2025
City Council Hearing Dt (if applicable) #: _____ PZ #: 25-081

This is a variance/appeal application for:

☒ Board of Zoning Appeals ☒ City Council

Owner's Name: _____
Documentation showing names of Principals authorized to sign application is **required for Corporations**.

EMAIL Address: _____

Mailing Address: _____

Phone Number: _____

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: _____

EMAIL Address: _____

Mailing Address: _____

Zip Code: _____ Phone Number: _____

Address of subject property: 2070 Airport Industrial Park Dr. SE,
Marietta, GA, 30060 Date of Acquisition: _____

Land Lot (s) 660 District 17th Parcel 170660040 Acreage 0.9 Zoned E3 Ward _____ FLU: _____

List the variance(s) or appeal requested (please attach any additional information): _____

Required Information

1. Application fee (Residential - \$250; Non-residential - \$350)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) - Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property. Documentation showing names of Principals authorized to sign application is **required for Corporations**.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. **Site plan - drawn to scale.** Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (8 1/2" x 11") -or- One (11" x 17") drawn to scale.
- Optional Additional Plat size: (24"x 36").** If providing (24"x 36") then 5 copies **REQUIRED** of the plat size pages.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

" Exhibit A "

Dear city of Marietta Board Members.

It has been our pleasure and privilege to serve the city of Marietta and the surrounding area's Transmission needs since August of 1995. For the last 30 years plus, we have serviced ^{Transmissions} here in Marietta from the same location by the same owner.

Due to changes in vehicle technology and newer vehicles operating more electronically than hydraulically, the demand for Transmission Rebuilding (Repair) has declined considerably and therefore sales have plummeted to an all time low, to a point that if no action is taken now, our 30 years of hard work and dedication will vanish.

We are eager to save the company and continue our journey of serving the city of Marietta by operating as CROWN TRANSMISSIONS INC DBA CROWN AUTO SALES.

Our goal and promise to the city of Marietta is to conduct business by practice of following Rules, Guidelines and all protocols exactly as they are written without deviation or Exception.

Our promise is to have even more happy customers and present them with high quality products, great service and an all the way around pleasant experience, which we are certain that it will earn us many more 5 star reviews.

* Thank you in advance for your consideration.

[REDACTED]
OWNER.















REST ROOMS

IN GOD
WE TRUST

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